

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN IMMIGRATION COUNCIL and
KATHRYN O. GREENBERG IMMIGRATION
JUSTICE CLINIC AT THE BENJAMIN N.
CARDOZO SCHOOL OF LAW,

Plaintiffs,

No. 19 Civ. 1835 (DLC) (RWL)

-v-

EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW and U.S. DEPARTMENT OF JUSTICE,

Defendants.

STIPULATION AND ~~PROPOSED~~ ORDER OF SETTLEMENT AND DISMISSAL

WHEREAS, Plaintiffs filed a complaint in this action seeking the release of certain records by the Executive Office for Immigration Review (“EOIR”) and the U.S. Department of Justice (“DOJ”) (together, “Defendants”), pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”);

WHEREAS, the allegations in the complaint concern FOIA requests dated July 17, 2018 and November 19, 2018, that Plaintiffs submitted to Defendants (the “FOIA Requests”);

WHEREAS, Defendants searched for, processed, and released non-exempt portions of records responsive to the FOIA Requests;

WHEREAS, the parties filed cross-motions for summary judgment regarding the adequacy of Defendants’ searches for responsive records produced by EOIR;

WHEREAS, by Opinion and Order dated November 15, 2019 (Dkt. No. 52), the Court granted Defendants’ motion for summary judgment in part and granted Plaintiffs’ motion for summary judgment in part;

WHEREAS, following Defendants' voluntary submission of an eight-page supplemental declaration, Plaintiffs agreed that Defendants had substantially responded to their FOIA requests and were prepared to agree to dismissal of the case, subject to their claim for attorney's fees (Dkt. No. 56);

WHEREAS, the parties agree that the only remaining issue in this matter concerns Plaintiffs' claim of entitlement to attorney's fees and litigation costs reasonably incurred in this case pursuant to 5 U.S.C. § 552(a)(4)(E); and

WHEREAS, the parties wish to resolve Plaintiffs' claim for attorney's fees and litigation costs consensually without further litigation;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. Pursuant to 5 U.S.C. § 552(a)(4)(E), as soon as reasonably practicable after the Court has endorsed and docketed this Stipulation and Order, EOIR shall pay to Plaintiffs the sum of \$10,000 (the "Settlement Amount"), which sum Plaintiffs agree to accept as full payment of any costs and/or fees they have incurred in or in connection with this matter.

2. Effective upon payment of the Settlement Amount set forth in Paragraph 1, Plaintiffs release the United States, its agencies, departments, officers, employees, servants, and agents, including Defendants, from any claims for attorney's fees, costs, and expenses of any kind, and however denominated, relating to services performed in connection with this matter.

3. Nothing in this Stipulation and Order shall constitute an admission by the United States or its agencies, including Defendants, that Plaintiffs "substantially prevailed" in this case under 5 U.S.C. § 552(a)(4)(E).

4. The parties understand and agree that this Stipulation and Order contains the entire agreement between them. No statements, representations, promises, agreements, or


negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

5. This action is hereby dismissed with prejudice, provided that the Court shall retain jurisdiction over any issues that may arise relating to this Stipulation and Order.

6. This stipulation may be executed in counterparts. Facsimile or PDF signatures shall have the same force and effect as original signatures.

[remainder of page intentionally left blank]

So ordered. 4.03.2020.



DENISE COTE
United States District Judge

Chicago, Illinois
April 3, 2020

AMERICAN IMMIGRATION COUNCIL
Attorney for Plaintiffs



Claudia Valenzuela, Esq.
1331 G Street NW, Suite 200
Washington, D.C. 20005
Tel. (202) 507-7540

New York, New York
April 3, 2020

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
Attorney for Respondents



Joshua E. Kahane, Esq.
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel. (212) 637-2699

SO ORDERED:

HON. DENISE L. COTE
UNITED STATES DISTRICT JUDGE